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**FISCAL IMPACT STATEMENT**

**LS 7478**

**BILL NUMBER:** SB 609

**NOTE PREPARED:** May 3, 2013

**BILL AMENDED:** Apr 26, 2013

**SUBJECT:** Horse Racing.

**FIRST AUTHOR:** Sen. Kenley

**FIRST SPONSOR:** Rep. Eberhart

**BILL STATUS:** Enrolled

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State

**Summary of Legislation:** This bill does the following:

*IHRC's Reporting Requirement:* The bill requires the Indiana Horse Racing Commission (IHRC) to report on the competitive status of the Indiana horse racing industry as compared to the horse racing industries of other states.

*Wagering Regulations:* It provides that the prohibition on members of the IHRC, employees of the IHRC, racing officials, and their respective spouses wagering on horse racing at racetracks and satellite facilities located in Indiana applies after December 31, 2013.

*Changes to Disciplinary Guidelines and Actions:* The bill requires the IHRC to post information concerning complaints and disciplinary actions on the IHRC Internet web site. It specifies the following concerning disciplinary action initiated by stewards and judges: (1) that unless appealed within 15 days, a suspension or civil penalty must be imposed within 180 days of the sanctioned violation; (2) that judges and stewards must prove the violation by the preponderance of the evidence; and (3) that the IHRC must conduct a hearing on an appeal within the time provided in the administrative adjudication law.

*Retained Wagers:* The bill allows the Indiana Horse Racing Commission (IHRC) to reduce the amount that a permit holder is required to retain from amounts wagered if reducing the amount retained is in the best interests of horse racing in Indiana.

*Racino Set Aside AGR:* The bill authorizes horse racing associations and racino licensees to negotiate the amount of slot machine receipts used to support the horse racing industry. It provides that the agreement must

require between 10% and 12% of the licensee's AGR. It provides that accounts, books, and records relating to the distributions are subject to audit by the State Board of Accounts. It recodifies the requirement that each racino pay \$250,000 to the Gaming Integrity Fund.

*Racino Taxation:* The bill provides that the racino slot machine wagering tax is imposed on 91.5% of AGR that include amounts used to support the horse racing industry.

*Technical Correction:* The bill makes technical corrections.

**Effective Date:** Upon Passage; July 1, 2013; January 1, 2014.

**Explanation of State Expenditures:** *IHRC's Reporting Requirement:* The IHRC currently produces an annual report at the end of every calendar year. In addition, the bill requires the IHRC to produce an annual report on the competitive status of the Indiana horse racing industry compared to other states. The report would likely require IHRC staff to conduct additional data collection and research on the horse racing industry. The IHRC's current level of resources should be sufficient to implement these reporting requirements.

Other provisions in the bill making changes to disciplinary guidelines and actions could lead to a minimal cost. The IHRC's current level of resources should be sufficient to implement these changes.

*Pari-Mutuel Wagering Handle Retained by Permit Holder:* The bill allows the IHRC upon request of a horsemen's association, to reduce the statutorily specified shares of the pari-mutuel wagering handle that a permit holder retains under current statute if it is in the best interest of the horse racing industry. The reduction in amounts retained by the permit holder would be used to increase purses. A permit holder withholds: (1) 18% of the total of money wagered on each day at the racetrack or satellite facility; plus (2) an additional 3.5% of the total of all money wagered on exotic wagering pools on each day at the racetrack or satellite facility. Shares of the amounts withheld are required by statute to be retained by the permit holder and used for purses and payment of pari-mutuel taxes.

**Explanation of State Revenues:** *Racino Set Aside AGR:* Starting July 1, 2013 the bill makes changes to the distribution of the set aside AGR from the two Indiana racinos. The bill authorizes the horsemen's associations and racino licensees to negotiate the amount of slot machine receipts used to support the horse racing industry beginning after January 1, 2014. The new negotiated amount would be distributed starting January 1, 2014. The distribution agreement must be between 10% and 12% of a licensee's annual AGR. The agreement is subject to the approval of the IHRC. The bill requires that in the absence of an agreement between the horsemen's associations and the racinos, the IHRC will set the distribution rate. The bill also makes changes to the distributions from the set aside. It provides for the following distributions per licensee starting in FY 2014:

(1) 15% of AGR for the horse racing purposes between July 1, 2013 and December 31, 2013. A negotiated amount between 10% and 12% of AGR for the horse racing purposes starting January 1, 2014.

(2) \$250,000 to be deposited separately by each licensee in the Gaming Integrity Fund.

Depending on the terms of the agreement, the total set aside AGR would be reduced between 3% and 5% of the total AGR. [Current statute requires each racino licensee to distribute 15% of its slot machine AGR to various purposes relating to the horse racing industry.] Assuming the parties agree to an 11% rate, the total

set aside amount will be reduced by \$6.7 M in FY 2014 and \$16.7 M in FY 2015. The impact of these reductions on state funds is shown in the table below.

ENTITY / FUND	FY 2014	FY 2015
State General Fund	(\$5.5 M)	(\$3.8 M)
Tobacco Master Settlement	(\$3.0 M)	(\$3.0 M)
Thoroughbred Breed Fund	\$0.3 M	(\$1.7 M)
Standardbred Breed Fund	\$0.4 M	(\$2.1 M)
Quarterhorse Breed Fund	\$0	(\$0.2 M)
<b>TOTAL</b>	<b>(\$7.8 M)</b>	<b>(\$10.8 M)</b>

*Racino Wagering Taxes:* Starting in FY 2014, the bill sets the racino slot machine wagering tax base at 91.5% of the adjusted gross receipts (AGR) generated at a racino instead of the 84.15% of AGR tax base currently being used by the racinos to compute their slot machine wagering tax. This change will result in a positive impact the state General Fund as shown in the table below.

ENTITY / FUND	FY 2014	FY 2015
State General Fund	\$10.3 M	\$9.6 M

[Under current statute, the racinos are required to pay 15% of AGR generated during the fiscal year for the following purposes: (2) the Tobacco Master Settlement Fund; (2) the state Gaming Integrity Fund; (3) the state Breed Development Funds; (4) private horsemen's associations; (5) horse racing purses; and (6) the state General Fund. Under *In re Indianapolis Downs, LLC., et al.*, Case No. 11-11046 (BLS) (Bankr. D.DE 2011), the Court heard a motion by Indianapolis Downs (owner of the Indy Live racino) for a determination of the legality of the slot machine wagering tax being imposed on all AGR amounts generated by the racinos, including the 15% of AGR distributed to various horse racing purposes and the state General Fund. The court ruled that the tax not be imposed on this 15% AGR distribution. In addition, the court granted a request by Hoosier Park (involved in a bankruptcy proceeding in the same Court) to join Indianapolis Downs' position. Consequently, the Court's ruling applies to both racinos. P.L 172-2011 changed the tax base from 100% of AGR to 99 % of AGR beginning July 1, 2012. The two Indiana racinos also reduced their remittance to 85% of the tax base as a result of the court ruling. The reduced remittances by the racinos began in November 2011 (Indy Live on November 1st and Hoosier Park on November 9<sup>th</sup>). The state revenue forecast for slot machine wagering tax was reduced to account for the revenue impact of the court ruling and the actions by both racinos to begin remitting the wagering tax based on 85% of AGR in accordance with the Court ruling. Currently the racinos are paying slot machine wagering taxes on 84.15% of their AGR (99% of AGR \* 85%).]

*Horse Racing Penalty Changes:* The bill allows racing stewards and racing judges to impose a penalty up to \$5,000. Currently they are limited to imposing a penalty up to \$1,000. This could have an impact on revenues if there are additional penalties imposed by these officers. Under current law the IHRC can impose a penalty in addition to the racing stewards and racing judges up to a total of \$6,000 for offenses related to these provisions. This bill would increase those amounts to a total of \$10,000. The civil penalty revenue collected by IHRC is deposited in the state General Fund.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** IHRC

**Local Agencies Affected:**

**Information Sources:** Indiana Administrative Code, IHRC; State Revenue Forecast, April 16, 2013.

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